IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

| PATRICIA HOAG |) | |
|---|------------------|-----------------------------------|
| Plaintiff, |) | |
| VS. |) | No. 2:10-cv-00025 JUDGE HAYNES |
| ERIC K. SHINSEKI, SECRETARY OF THE UNITED STATES DEPARTMENT OF VETERAN AFFAIRS, ¹ AND THE UNITED STATES OF AMERICA, |)))) | |
| Defendants. |))) | |
| | ORDER | |

Patricia Hoag, Plaintiff, filed this action under 28 U.S.C. §1346(a)(2) against the Defendants, Eric Shinseki, Secretary of the United States Department of Veteran Affairs and the United States of America. Plaintiff's claims are that the Department of Veteran Affairs failed to honor a contract to sell real estate to Plaintiff for which Plaintiff seeks specific performance or alternatively, damages. (Docket Entry No. 1, Complaint, at p.7). Plaintiff amended her complaint to include a claim under the Federal Declaratory Judgment statutes. (Docket Entry No. 14). The value of the land in dispute is \$45,000. (Docket Entry No. 1 at ¶27).

Before the Court is the Defendant's motion to dismiss (Docket Entry No. 12) contending that the Court lacks jurisdiction over these claims for specific performance against the United States under 28 U.S.C. §1346(a)(2). Plaintiff concurs on the lack of jurisdiction and moves to transfer this action to the Court of Federal Claims. (Docket Entry No. 15)

¹ Plaintiff incorrectly spelled Secretary Eric Shinseki's name in the complaint as "Shinskei." (Docket Entry No. 1). Both parties have continued to use the incorrect spelling in their filings. The Court will use the correct spelling: "Shinseki."

For a contract claim against the federal government over \$10,000 the Court of Federal Claims has exclusive jurisdiction. Matthews v. United States, 810 F.2d 109, 111 (6th Cir.1987); 28 U.S.C.A. §1346(a)(2); 28 U.S.C. §1491.

This Circuit has held that the Declaratory Judgment Act is not a sufficient basis to provide independent jurisdiction over a claim. Michigan S. R.R. v. Branch & St. Joseph Counties Rail Users Ass'n, 287 F.3d 568, 575 (6th Cir. 2002) ("It is well-settled that the Declaratory Judgment Act cannot serve as an independent basis for federal subject matter jurisdiction.").

Given the Court's lack of jurisdiction, the Defendant's motion to dismiss (Docket Entry No. 12) is **GRANTED**. To avoid the unnecessary costs of refiling her complaint, Plaintiff's motion to transfer is **GRANTED**. 28 U.S.C. §1631. The Clerk shall transfer the file on this action to the Federal Claims Court.

This is the final order in this action.

It is so **ORDERED**.

Entered this the _______ day of November, 2010.

United States District Judge